

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DR. GERALD R. FINKEL, :
Petitioner, :
: **MEMORANDUM AND ORDER**
- against - : 21-cv-1881 (AMD) (RML)
HIGH VOLT ELECTRIC CORP. OF :
AMERICA, :
: Respondent.
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ANN M. DONNELLY, United States District Judge:

The petitioner filed this action against High Volt Electric Corporation of America (“High Volt”) on April 8, 2021, seeking confirmation of an arbitration award and reasonable attorneys’ fees and costs expended in connection with this action. (ECF No. 1.) In the arbitration, the petitioner sought to recover unpaid contributions and related damages owed by the respondent pursuant to § 502(a)(3) of the Employee Retirement Income Security Act of 1974 and § 301 of the Labor Management Relations Act of 1947. (*Id.*)

On April 15, 2021, the petitioner served High Volt, which did not answer or otherwise move with respect to the petition. (ECF No. 9.) On June 18, 2021, the petitioner filed a letter requesting that his petition be deemed an unopposed motion for summary judgment. (ECF No. 10.) On September 3, 2021, I referred the pending motions to Magistrate Judge Robert M. Levy.

On November 30, 2021, Judge Levy filed a report and recommendation. (ECF No. 12.) On the same day, the petitioner filed proof of service of the report and recommendation on the respondent. (ECF No. 13.) In Judge Levy’s thorough report and recommendation, he recommends that the Court confirm the arbitration award, and award the petitioner \$136,809.29

in damages, and \$1,035 in attorneys' fees and costs. (ECF No. 12 at 1.) He declined to recommend that the Court award the petitioner pre-judgment interest, stating that the "petitioner has not provided calculations for pre-judgment interest or proposed how pre-judgment interest should be calculated in this case." (*Id.* at 9.) Judge Levy allowed the petitioner to submit pre-judgment interest calculations for his consideration by December 23, 2021. (*Id.*) The petitioner has not filed pre-judgment interest calculations, and no party has filed an objection to the report and recommendation; the time for doing so has passed.

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). To accept a report and recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

I have carefully reviewed Judge Levy's well-reasoned and comprehensive report and recommendation. I find no error. Accordingly, I adopt the report and recommendation in its entirety.

CONCLUSION

The arbitration award is confirmed, and the petitioner is awarded \$136,809.29 in damages, and \$1,035 in attorneys' fees and costs.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
January 13, 2022